

NTSB Order No. EM-192

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 24th day of January, 2002

Appellant.

Docket ME-169

Appellant, *pro se*, seeks review of a decision of the Vice Commandant (Appeal No. 2618, dated April 27, 2000) affirming a decision entered by Coast Guard Chief Administrative Law Judge Joseph N. Ingolia on July 18, 1997, following a hearing on June 17, 1997.¹ The law judge sustained charges of misconduct, violation of regulation, and violation of law on allegations that

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the appellant, while serving under the authority of his master's license, had operated the M/V LRS RENAISSANCE on a for-hire trip on May 5, 1997, when, among other things, it did not have a valid certificate of inspection.² He therefore ordered that appellant's Merchant Mariner's License (No. 764165), and all other Coast Guard issued licenses and documents held by him, be suspended outright for one month with four additional months' suspension remitted on sixteen months' probation. As we find no error in the Vice Commandant's affirmance of the law judge's decision, we will deny the appeal.³

It is not entirely clear from Appellant's contentions on appeal here whether he actually contests the Coast Guard's conclusion that the May 5 voyage was a for-hire operation⁴ or that he simply believes that the Coast Guard's charges should be dismissed because it, in his view, failed to provide him with sufficient guidance on how to operate the vessel with passengers aboard as a free cruise. In any event, aside from demonstrating

²The alleged lack of a certificate of inspection for the vessel underlay the misconduct charge. Failure to observe requirements on pre-trip passenger safety briefings and the reporting of marine casualties fell under the violation of regulation allegation. The violation of law infraction was based on appellant's alleged failure to have his mariner's license posted on the vessel in a conspicuous location.

³Appellant's request for oral argument is denied. The existing record provides an adequate basis for resolving the issues his appeal raises.

⁴It is clear that the appellant did not challenge the "for-hire" determination on his appeal to the Vice Commandant. In the absence of good cause to excuse the failure to raise such an objection on appeal from the law judge's order, we will not independently review the issue.

his disagreement with the judgment that any charges against him should be sustained, he has not identified any basis for finding that the law judge incorrectly weighed, or misunderstood, the documentary evidence abundantly supporting the for-hire determination, or that his related credibility assessments should be overturned.

We see no necessity to attempt to determine whether the Coast Guard, consistent with the Small Business Regulatory Enforcement Fairness Act of 1996, properly discharged its obligation to provide appellant's company (Captain Sinn's Dock) with the guidance it needed to remain within the various maritime laws that applied to the kind of operations in which appellant wanted to engage. In the first place, appellant has not demonstrated error in the Vice Commandant's conclusion that the SBREA does not relieve him or his company of responsibilities imposed by other federal laws and regulations. In the second place, given the conclusion of the law judge, affirmed by the Vice Commandant, that appellant had not intended that the May 5, 1997 voyage be operated as a free cruise, the question of Coast Guard's compliance with the SBREA is simply not relevant.⁵

ACCORDINGLY, IT IS ORDERED THAT:

1. The appellant's appeal is denied; and
2. The decision of the Vice Commandant affirming the decision and order of the law judge is affirmed.

⁵From the record, it would appear that the Coast Guard was trying to facilitate appellant's ability to operate an un-inspected vessel at the time of the subject voyage, but appellant was not pleased with the pace of the Coast Guard's efforts.

BLAKEY, Chairman, CARMODY, Vice Chairman, and HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.